

REMARKS

This is in response to the non-final Office Action mailed on 18 January 2007 in which pending claims 1-14 stand rejected.

Herewith Applicants amend claims 1, 2, 4, 5, 7, 8, and 12, cancel claims 6 and 13, and add no new claims.

Entry and favorable consideration of the amendments and remarks presented herewith is respectfully requested.

Objection to the Drawings/Specification

The drawings were objected to because they allegedly fail to show the monitoring/stimulating means claimed in the application.

Applicants respectfully disagree but herewith submit a substitute specification to address the stated objection including text and drawings from the Warkentin application (now U.S. Pat. No. 7,027,866) which clearly describes and depicts said monitoring/stimulating means.

Assuming the Examiner agrees to enter the substitute specification the objection to the drawings should be withdrawn; and said withdrawal is respectfully requested.

Claim Rejections under 35 U.S.C. §103

Pending claims 1-8 and 11-14 stand rejected as allegedly obvious over the '623 patent to Kieval et al. (Kieval) in view of the '176 patent to Bornzin (Bornzin).

Applicants respectfully traverse the rejection (which is moot as to cancel claims 6 and 13).

First of all, regarding independent claim 1, the Examiner argues that Kieval provides a majority of disclosure contained in the claim but suggests that Bornzin stands for the proposition that hemodynamic data be collected during periods of rest and periods wherein said patient is performing the activities of daily living.

However, neither Kieval nor Bornzin provides for chronic delivery of a cardiac pacing therapy based on a lowest measured estimated pulmonary artery diastolic pressure (ePAD) value in contrast to the presently claimed invention.

Accordingly, the combination of Kieval and Bornzin would not allow a person of skill in the art to realize the presently claimed invention. Thus, the rejection posited by the Examiner fails to reach the threshold of constituting a *prima facie* obviousness rejection and thus cannot succeed.

Based on the same rationale, independent claim 5, and claims depending therefrom and independent claim 14 also cannot fairly be said to be rendered obvious by the posited combination of Kieval and Bornzin and they too include claim limitation neither found nor suggested in Kieval or Bornzin.

Likewise, as for claims 4 and 9-13 the rejection based on the combination of Kieval and Bornzin in view of the '324 patent to Carlson likewise fails to constitute a *prima facie* obviousness rejection and therefore also cannot succeed. Withdrawal of the ground of rejection applied to claims 4 and 9-12 is thus earnestly solicited so that the claimed invention may proceed to timely issuance as U.S. Letters Patent.

Conclusion

Applicants respectfully suggest that all pending claims are now in condition for allowance and earnestly solicit the Examiner to issue a Notice of Allowance in due course so that the claimed invention can pass to timely issuance as U.S. Letters Patent.

The Examiner is invited to contact the undersigned with any questions regarding the instant application and this Response.

Respectfully submitted,

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Date

/Paul H. McDowell/
Paul H. McDowell
Reg. No. 34,873
(763) 514-3351
Customer No. 27581